Office Action Summary

Application No.	Applicant(s)	
10/796,380	TOLMEI, RON	
Examiner	**Art Unit**	
Marie A. Weiskopf	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03/09/2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1/7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03/09/2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-7 have been examined.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.

4. The disclosure is objected to because of the following informalities:

- Pg. 3, paragraph 1, line 6 – "to low" should be "too low"
- Pg. 3, paragraph 2, line 5 – "do" should be "due"
- Pg. 4, paragraph 3, line 1 – "Accordingly the major factors associated with the loss of occupancy detection, already briefly recited, the present invention..." does not seem to make sense. Examiner suggests changing to "Accordingly, *with* the major factors associated with the loss of occupancy detection, already briefly recited, the present invention..."

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nahla (US Pub. 20050107954) in view of Altan et al. (US 6,813,563.)

- In regards to claim 1, Nahla discloses a vehicle navigation, collision, avoidance and control system comprising:
    - An automatic train operation system communicating with a speed command comparison device that communicates with a controller device that controls the reception or transmission of speed commands and formatting of a GPS receiver's output data, speed commands and decoded data received from the speed command comparison device whose data output is supplied to (Page 11, paragraph 166; Page 10, paragraph 161):
        - A radio frequency transceiver (Page 10, paragraph 163)
        - A train line transceiver (Page 5, paragraph 45; Page 10, paragraph 161, lines 8-13)
        - Or a traction power transceiver . (Page 11, pargraph 167)

For the purpose of detecting and annunciating when a train whose presence should be detected and annunciated goes undetected and unannounced.

Nahla fails to disclose the use of an optical transceiver, however, Altan et al. does disclose the use of an optical transceiver to provide collision warning. (Column 2, lines 20-35) It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nahla by adding the optical transceiver, as taught by Altan et al., in order to provide a system that would be able to fully annunciate and detect when there is a loss of occupancy detection on the track.

- In regards to claim 2, Nahla discloses a speed and data decoding device comprised of computer electronics and software algorithms as a means of decoding control data and speed commands received from an on board automatic train control system for the purpose of detecting a valid nonzero speed command and ancillary data. (Page 11, paragraph 166)
- In regards to claim 3, Nahla discloses a controller comprised of computer electronics and software algorithms as a means of formatting, selecting, and communicating with a GPS's receiver output, a radio frequency transceiver, optical transceiver, a train line transceiver and a traction power transceiver to communicate the loss of occupancy detection to train and wayside authorities. (Page 10, paragraph 161)

- In regards to claim 4, Altan et al. discloses an optical transceiver itself comprised of laser, infrared, or other optical spectra transceivers whose purpose is to communicate the loss of occupancy detection to train and wayside authorities. (Column 2, lines 20-35)
- In regards to claim 5, Nahla discloses a radio frequency transceiver comprised of electromagnetic spectra transmitter-receiver equipment necessary to communicate the loss of occupancy detection to train and wayside authorities. (Page 10, paragraph 163) It would have been obvious to one having ordinary skill in the art at the time of the invention to have a high degree of reliability in order to make sure that the desired information is passed so as to avoid accidents.
- In regards to claim 6, Nahla discloses a train line transceiver capable of communicating with existing train communications equipment to annunciate the loss of occupancy detection to train authority without interference. (Page 5, paragraph 45; Page 10, paragraph 161, lines 8-13)
- In regards to claim 7, Nahla discloses a traction power transceiver with the capability to communicate over traction power couplings to annunciate the loss of occupancy detection to wayside authorities. Nahla discloses a Transponder Identification System that communicates and annunciates the occupancy of a train on a track. (Page 11, paragraph 167) It would have been obvious to one having ordinary skill in the art at the time of the invention to create this system

with a high degree of immunity from electrical noise in order to have a system that works correctly.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Pat. No. 6,480,766 to Hawthrone et al. discusses a method of determining train and tack characteristics using navigational data.
- US Pat. No. 6,218,961 to Gross et al. discusses a method and system for proximity detection and location determination.
- US Pat. No. 6,490,523 to Doner discusses a method and apparatus for locomotive tracking.
- US Pat. No. 6,402,094 to Beer discusses an arrangement for transmitting a signal from a transmitter to a rail vehicle for position finding and information transmission.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie A. Weiskopf whose telephone number is (571) 272-6288. The examiner can normally be reached on Monday-Friday between 7:00 AM and 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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THOMAS S. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600

Notice of References Cited	Application/Control No. 10/796,380	Applicant(s)/Patent Under Reexamination TOLMEI, RON	
	Examiner Marie A. Welskopf	Art Unit 3661	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-2005/0107954	05-2005	Nahla, Ibrahim	701/301
	B	US-6,813,562	11-2004	Altan et al.	701/301
	C	US-6,480,766	11-2002	Hawthorne et al.	701/19
	D	US-6,218,961	04-2001	Gross et al.	340/903
	E	US-6,490,523	12-2002	Doner, John R.	701/213
	F	US-6,402,094	06-2002	Beer, Kersten	246/122R
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and attachments if any, will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, VA 22313-1450 on the date below.

October 21, 2005 ----------

Ron Tolmei, Applicant